

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 97-0252

Gross Income Tax

Fiscal Years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, and 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration— Notice

Authority: IC 6-8.1-5-1(a); 45 IAC 15-5-1

Taxpayer protests the assessments that were based upon best information available.

STATEMENT OF FACTS

Taxpayer, located in Ohio, manufactures and installs building signs. An audit was completed on January 21, 1997 based upon best information available. Taxpayer protests and states that these sales are not representative of sales made to entities in Indiana over the ten (10) year period.

The department returned the audit to the auditor per taxpayer representative's request to obtain additional information on June 16, 1997. Auditor states it had received additional information from the taxpayer's representative on August 8, 1997 which would necessitate adjustment to the audit. On September 15, 1997 the auditor provided the taxpayer's representative with the workpapers for the actual results. On October 13, 1997 the representative indicated to the auditor that the taxpayer would sign a withdrawal of the protest. The file was returned to the Legal Division on November 20, 1997 without a withdrawal as the taxpayer failed to produce either a response or a letter to withdraw the protest after numerous follow-up calls.

On July 17, 1998 a letter advising the taxpayer that a hearing was scheduled for August 17, 1998 was mailed. Taxpayer representative called the hearing officer on August 13, 1998 and stated that the

auditor had agreed to supplement both audits.

The auditor had agreed to supplement the income tax audit from \$2,543 to \$535. The hearing officer asked the representative, in a letter dated August 14, 1998 to provide additional information or a withdrawal letter. In a letter dated September 28, 1998, the hearing officer confirmed with taxpayer representative, the agreement to adjust the audit to \$535 in tax.

I. **Tax Administration** – Notice

DISCUSSION

At issue is whether the taxpayer's best information audit should be adjusted.

Taxpayer, in numerous attempts to rectify the best information audit, had failed to supply information to warrant an adjustment to the liabilities. Auditor in her last attempt has arrived at a reduction of the assessment for all years of the audit.

Since no further information has been received, the department will adjust the audit from its original assessment of \$2543 to \$535.

FINDING

Taxpayer's protest is sustained in part and denied in part. The best information audit is adjusted to actual as presented to the taxpayer representative on September 15, 1997.